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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,958	02/19/2002	Gary F. Falkenstein	017058-0142	2005

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT PAPER NUMBER

3627

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,958

Applicant(s)

FALKENSTEIN ET AL.

Examiner

F. Ryan Zeender

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-23 and 25-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 and 6-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-23, 25-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 1-4 and 6-19 were withdrawn from consideration in a previous Office action as being drawn to a non-elected invention. The request by the applicant to rejoin claims 1-4 and 6-19 as provided by MPEP 821.04 has been denied due to a lack of an allowed product/system claim.

Claim Rejections - 35 USC § 103

Claims 20-23 and 25-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taoka et al. in view of Tanaka et al. and Cox et al.

Taoka et al. disclose an inventory control system for tracking inventories of a time period sensitive item on a time period sensitive basis (See for example Cols. 4 and 7-9) including: determining an initial production index value representing availability of time sensitive items (i.e., product; See for example Cols. 7-9) per source item (i.e., materials; See for example Cols. 8-9) for each time period and adjusting the production index (i.e., modifying production; See for example Cols. 9-11) based on conditions/environment.

Taoka et al. lack the use of a multi-unit processing system and the source item and time sensitive item specifically grown on a farm.

Tanaka et al. teach a similar production planning system utilizing a plurality of processing units (See for example Fig. 1) including computer code for the control system.

Cox et al. '542 teach that it was well known to track the production of farm products by determining an initial production index value representing the amount of final processed commodities available (i.e., cheese) per amount of intermediate commodities (i.e., milk); and adjusting production based on observed parameters (i.e., demand) related to the intermediate commodity (i.e., applicant's claimed "source item")

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Taoka et al. to include a plurality of processing units using computer code, as taught by Tanaka et al., in order to ensure "high production efficiency" (See Tanaka et al., Col. 2, line 44).

It would have been further obvious to one of ordinary skill in the art to modify Taoka et al. to have the time sensitive item grown on a farm, in view of Cox et al., in order to be able to use a computer for forecasting production of agricultural commodities (See Cox, Col. 1, lines 25-30).

Re claims 21-23, 23-31, and 33-34 The use of the system in a plant/seedling environment would have been an obvious design choice to one of ordinary skill in the art at the time of the invention in order to increase production efficiency of other types of farm products not specifically taught by Cox et al..

Response to Arguments

Applicant's arguments with respect to claims 20-23 and 25-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (571) 272-6790. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on (571) 272-6771. The receptionist's phone number for the Technology center is (571) 272-3600.

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The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

F. Zeender
Primary Examiner, A.U. 3627
March 3, 2006

 3/3/06
F. RYAN ZEENDER
PRIMARY EXAMINER